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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/580,493 12/29/95 BERNA

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QM12/0316

AIR MAIL

EXAMINER

BRYANT, D

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 03/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/580,493

Applicant(s)
BERNA

Examiner
David Bryant

Group Art Unit
3726



☒ Responsive to communication(s) filed on 1/10/01

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-18 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 1-15 is/are allowed.

☒ Claim(s) 16-18 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on 1/10/01 is ☐ approved ☒ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Preliminary Remarks

1. Applicant should note that even though the last action was issued in accordance with Ex Parte Quayle, the amendments to the claims presented 1/10/2001 have been entered into the file in order to make the record clear as to which versions of the claims are now pending. However, claim 16 is further rejected in view of the remarks below. The changes to the drawings and the specification have not been entered for the reasons cited below. Even though applicant believed that the substitute specification and drawings added no new matter, the examiner has found that they do indeed contain new matter as set forth below. Applicant is requested to reply to this action without adding any new matter to the drawings or specification and without adding anything additional to the claims except for what is noted below. Applicant should follow the directions contained in this office action carefully in order to avoid abandonment of the application.

Drawings

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 1/10/2001 have been disapproved and not entered because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the

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disclosure of an application. The original disclosure does not support the showing of the clamping mechanisms as shown in proposed new figures 12-14.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claims 12-15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Further, to facilitate a better understanding of the features recited in claims 12-15, applicant is requested to point out to the examiner the corresponding disclosure of this subject matter in the specification. (This was requested in the previous office action but was not addressed by applicant in the response thereto).

4. Allowable subject matter having been set forth in this office action, applicant is required to submit a complete set of proposed corrected drawing for the examiner's review.

Specification

5. The substitute specification filed 1/10/2001 has not been entered because it contains new matter. Examples of such new matter are as follows (reference is made here to the marked-up copy of the substitute specification) : Page 1, lines 4-7 in their entirety; the last three lines of page 8 including "[T]hus it is possible to press against a surface very far from its edges, provided the auxiliary bar would be large enough" (emphasis added); the last four lines of page 9 and the first four lines of page 10, including "[T]he force exerted by fingers or hand palms..."; the brief description of figures 12-14 as set forth at the end of page 10 and the beginning of page 11; page

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11, line 37, "which has a protuberance that is thrust into a hole"; page 12, line 12, changing "cradle-stirrup" to read --shackle--; page 13, lines 17-20 in their entirety; page 13, line 31, "[P]ulling the tail". **Applicant should further note that the above examples of new matter may appear elsewhere in the substitute specification.** Applicant is required, in response to this office action, to submit a substitute specification that contains no new matter (i.e. subject matter that is not supported by the specification as originally filed).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 16-18 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, there is no support for "[T]he force exerted by fingers of hand palms...", "stopping the exertion...when hands feel enough resistance" (emphasis added) or "[S]aid at least one moveable arm is then repulsed by said object".

8. Claims 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In the “sliding” limitation of claim 16, it is not clear what is meant by “in direction of said object”. Further, the claim structure includes multiple sentences, which creates confusion as to what the scope of the claimed invention is. Applicant is requested to re-write claim 16 to correct the problem noted in the previous office action and to not include any of the additional subject matter added. Applicant should re-write the claim by including a clean version (no underlining and bracketing) along with a marked-up copy of the claim.

Allowable Subject Matter

9. Claims 1-15 are allowed.
10. Claims 16-18 would be allowable if rewritten or amended to overcome the rejections set forth under 35 USC 112 set forth in this Office action.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner David Bryant whose telephone number is (703) 308-1859. Excluding holidays and the first Friday of every biweek, the examiner can be reached daily from 7:00 AM to 4:30 PM.

Documents related to this application may be submitted by facsimile at any time. The Group 3720 fax number is (703) 305-3579. All faxed documents must conform with the notice published in the Official Gazette, 1096 OG 30 (October 19, 1988). Applicant is reminded to clearly mark any document as "DRAFT" if it is not to be considered a formal response.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

for *Tom Hughes, SPE*
DAVID BRYANT
PRIMARY EXAMINER
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March 15, 2001